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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-seventh session

SUMMARY RECORD OF THE 1112th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 9 August 1995, at 10 a.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

1. The CHAIRMAN informed the Committee that the representative of the United Arab Emirates had asked if his delegation could have an hour longer than scheduled for the consideration of its seventh, eighth, ninth, tenth and eleventh reports (CERD/C/279/Add.1) to give it time to answer the Committee's questions.

2. Mr. BANTON considered that time limits must be respected and that the request should, therefore, be turned down. The three hours originally allocated for consideration of the report was more than enough time to deal with the situation in the United Arab Emirates.

3. Mr. RECHETOV, supported by Mr. WOLFRUM, Mr. SHERIFIS and Mr. de GOUTTES, said he felt strongly that the United Arab Emirates should be granted extra time in which to answer the Committee's questions. It was the Committee's responsibility to listen to what States parties had to report on the status of implementation of the Convention.

4. The CHAIRMAN said that the Committee would not discount the possibility of granting the United Arab Emirates the extra hour it had requested.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Sixth and seventh periodic reports of the United Republic of Tanzania (CERD/C/131/Add.11)

5. At the invitation of the Chairman, Mr. Mangachi (United Republic of Tanzania) took a place at the Committee table.

6. The CHAIRMAN welcomed the representative of the United Republic of Tanzania to the Committee's review of his country's implementation of the Convention.

7. Mr. MANGACHI (United Republic of Tanzania) apologized to the Committee for his Government's failure to update the sixth and seventh periodic reports (CERD/C/131/Add.11). However, many of the observations in the reports were still valid. For example, the constitutional principles mentioned in paragraph 9 continued to be upheld, as were the civil, economic, social and cultural rights described in paragraphs 34 to 45. However, rapid political changes at home and abroad had forced Tanzania to amend its legislation. For instance, its foreign policy vis-à-vis South Africa had been radically overhauled since the end of apartheid. Domestic legislation had also been amended to enhance the political rights of the population. The right to vote and to stand for election was guaranteed and the first multi-party elections would be held in October 1995.

8. The CHAIRMAN, speaking as Country Rapporteur, said that in March 1994 the Government of the United Republic of Tanzania had asked to postpone submission of its next periodic report. However, no report had been forthcoming since then. It was therefore encouraging that a Tanzanian representative had come to address the Committee.

9. In the seven years since the sixth and seventh periodic reports had been submitted, President Mwinyi had been re-elected, the Constitution had been amended, and political and economic reforms had been carried out, including the introduction of a multi-party system. It was also clear that Tanzania was taking its obligations under international human rights instruments seriously. However, there were still problems, including the conflict between the Union Government and Zanzibar, belated reforms of legislation, and the customary law that discriminated against women. In addition, the terms "race", "colour", "descent" and "national or ethnic origin" were absent from the definition of racial discrimination given in article 13 of the Tanzanian Constitution. The Government should consider inserting them in order to bring Tanzania's definition into line with that contained in article 1 of the Convention. Furthermore, paragraph 20 of the report stated that Tanzania had not enacted supplementary legislation to ensure compliance with article 4 of the Convention because it assumed that the Constitution, as the supreme law, was sufficient. That was not necessarily the case, since specific legislation was needed to back up constitutional provisions and ensure that a country's legal system was effective. The Constitution also failed to make racist activities a criminal offence. The Committee would welcome information on any court decisions on cases of alleged racial discrimination or victimization. Was the absence of such information in the sixth and seventh periodic reports an indication of the reluctance of victims to take recourse through the courts?

10. Additional information was needed on the status of international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, in the hierarchy of domestic legislation and on whether the Convention could be directly invoked before the courts.

11. It was a matter of some concern that the Government, in paragraphs 5 and 6 of the report, failed to acknowledge the existence of ethnic differences in Tanzania. The 40,000 Asians living on the Tanzanian mainland and the 4,000 living in Zanzibar, not to mention the Barabaig people, were clearly ethnically distinct from black African Tanzanians, as were the foreigners and the many thousands of refugees living in Tanzania. There were 127 tribes in Tanzania and although Swahili was their common language, each region had its own language. There were reports that African Tanzanians were discriminating against the Asian population and that pressure was being brought to bear on the Government to adopt policies of "indigenization" in order to ensure that the Asian community did not benefit from the privatization programme at the expense of the African population. The Barabaig people claimed that the Government of Tanzania had illegally dispossessed them of their traditional lands for the sake of an agricultural project. Comments on that question would be welcome. In 1994, the Barabaig people had started to campaign for redress for past discrimination and to

preserve their culture, which was a sign of democratic change in Tanzania. Details of the rights of foreigners in terms of voting and employment should be provided.

12. The existence of "Asians, Arabs and other people" in Tanzania was conceded in paragraph 12 of the report, which stated that the Government's relationship with those communities was based on the concept of one society rather than on a perception of their status as separate or assimilated groups. He pointed out that the acceptability of assimilation depended on its purpose and the means whereby it was achieved.

13. Why was the Government unwilling to gather statistical data on the demographic composition of the population and why did the amended Constitution of 1992 ban political parties based on ethnic, tribal, regional or religious identification or espousing the dissolution of the Union? The fear that such parties might endanger national security and the territorial integrity of the State was understandable and the Committee had consistently opposed secession and violation of territorial integrity. But at the same time the Government claimed that it had succeeded in "welding the nation together". He drew attention in that context to the case, reported by the Special Rapporteur on religious intolerance in paragraph 98 of document E/CN.4/1995/91, of the banning of the Quran Development Council of Tanzania on account of its alleged involvement in the destruction of three pork butcheries in Dar es Salaam by militant Islamists.

14. He asked whether there was a division along ethnic lines between communities professing different religions. If there was, the Committee would require more information concerning allegations by Muslims of preferential treatment for Christians in the civil service and Government and in State-owned businesses, and allegations by Christians of favouritism on the part of the Muslim President in recruitment for government positions and in the award of scholarships.

15. Had Tanzanians free access to courts of law and legal remedies if they wished to file a complaint alleging racial discrimination? Although Tanzanian legal experts generally agreed that the Judiciary was mandated to operate independently from the Executive, they were concerned that senior police officers and government officials had influenced court decisions in a number of cases, putting pressure on judges whose decisions were not to their liking and even threatening them with transfer and reassignment. Over 70 teachers on the island of Pemba had been dismissed by the Government for alleged involvement in anti-government policies and had been unable to seek legal redress or to rebut the allegations.

16. Tanzania had an admirable record of activism in the international community in support of decolonization and was itself still struggling with the legacy of its colonial past as it strove to bring about democratic change. The dialogue that had just begun reinforced his conviction that it would also make a valuable contribution to the implementation of the Convention and to the struggle against racial discrimination throughout the world.

17. Mrs. SADIQ ALI said that the Masai community, the largest single marginalized group in the United Republic of Tanzania, had identified

three problem areas at its first Conference on Culture and Development in December 1991: land alienation which had changed their natural habitat and pastoral way of life, leading to impoverishment; the clash between their customs, traditions and beliefs and the forces of modernity; a very high illiteracy rate which hampered communication with the outside world. What steps was the Government taking to improve their lot?

18. She asked whether the members of the Barabaig community who had been driven off high-quality grazing land by the National Agriculture and Food Corporation (NAFCO) had been given compensation for the resulting decline in the productivity of their herds. The expropriation scheme had contravened the law because it failed to respect Barabaig customary rights derived from historical and spiritual claims. According to Africa Watch, government officials had engaged in systematic abuse of Barabaig civil rights and had tried to deny them recourse to the courts to settle the dispute. In July 1989, the Prime Minister, using extraordinary powers conferred by a 1973 Act of Parliament, had issued a government notice abolishing customary land rights in the Barabaig lands under NAFCO occupancy, allegedly in an attempt to pre-empt two applications to the courts filed on behalf of the Barabaig community by the Legal Aid Committee and the University of Dar es Salaam. The Minister's notice had been denounced as unconstitutional and a violation both of the African Charter on Human and Peoples' Rights and of the Tanzanian Bill of Rights, which had become justiciable in 1988. If courts could be prevented from considering alleged violations of basic rights by executive fiat, the justiciable Bill of Rights was a dead letter. She asked whether the Government had taken any action to deal with the complaints of the Barabaig community.

19. According to the World Bank, the per capita income of Tanzania, at US$ 110, was only marginally higher than that of Mozambique. The country was hosting a quarter of a million refugees from neighbouring Burundi. Cholera and malaria were endemic and AIDS was a major socio-economic problem. Inflation was running at 22 per cent and there was an impending food shortage due to a drought. What steps was the Government taking to deal with those problems?

20. The once exemplary Tanzanian education system was on the brink of collapse. Primary school enrolment had dropped from 96 per cent of eligible children in 1979 to 78 per cent in 1987. Secondary school enrolment, at only 3 per cent for the 14 to 17 age group, was among the lowest in the world. School buildings were not being properly maintained. What was being done to improve school facilities and revitalize the education system?

21. Mr. SHERIFIS said that he had long been impressed by the performance of Tanzanian delegations to the United Nations as activists in the furtherance of human rights and decolonization and against apartheid in the Group of 77 and the Movement of Non-Aligned Countries. He had therefore been particularly disappointed at the previous lack of dialogue between the United Republic of Tanzania and the Committee. All States parties were bound by the provision of article 9, paragraph 1 (b), regarding the submission of periodic reports.

22. The policy of treating the entire population as a single community had, according to the report, succeeded in welding the nation together. As a

Cypriot, he envied Tanzania that achievement. What special measures had the Government taken to ensure that all ethnic groups participated in all branches of public life, the Executive, the Legislature and the Judiciary?

23. Mr. AHMADU said that on a previous occasion the periodic report of the United Republic of Tanzania had been discussed without a country representative; the reverse situation obtained at the current session. He trusted that both a report and a country representative would appear before the Committee on the next occasion Tanzania was discussed.

24. There were a number of points that should be highlighted in the next report. The country had a new President, a multiparty system and a new Constitution. The policy of ujamaa, a contribution to political philosophy that had been hailed in the past as the panacea for all Africa's ills, had been abandoned. The no less acclaimed and emulated policy of democracy in a one-party system had also been abandoned. Why had both those experiments failed?

25. Former President Julius Nyerere had pioneered a mass literacy campaign in Africa. Was the current slackening of that campaign in Tanzania due to a lack of funds? He suggested that funding might be available from the World Bank.

26. Mr. WOLFRUM said that it was not the Committee's intention in requesting demographic data to undermine communal integration in the United Republic of Tanzania. On the contrary, it believed that where a State was composed of different ethnic groups, action should be taken to ensure harmonious coexistence and cooperation of those groups. He asked how the economic, social and cultural status of the Masai, on the one hand, and the people of Zanzibar, on the other, compared with that of the rest of the population.

27. Mr. BANTON recommended that the State party should take careful note of paragraph 8 of the revised general guidelines regarding the form and contents of reports (CERD/C/70/Rev.3) in connection with the reporting of demographic data. He endorsed Mrs. Sadiq Ali's comments concerning the Barabaig community.

28. Mr. ABOUL-NASR said that the present meeting was extremely valuable since it would give the Government of the United Republic of Tanzania an idea of the Committee's main areas of concern and what should be covered in the periodic report. The latter must provide the Committee with more detailed information on human rights in Tanzania; in the meantime members were obliged to rely on other sources, which might be biased and did not necessarily reflect the real problems and priorities of the country. The Committee realized that the stringent reporting obligations of the various United Nations bodies constituted a heavy burden for smaller States parties, which had few qualified staff available for such tasks. Some of the information given by the Tanzanian representative, although not directly linked to compliance with the Convention, had proved useful - for instance, the information on Tanzania's colonial history and transition towards a multi-party system. He had the impression that racial tension between Muslims and Christians had largely been resolved in the past. The Committee would welcome the views of the Government on how remaining difficulties could be overcome, in the light of its priorities such as the debt burden and the overall social and economic

development of the nation. Tanzania could not be expected to adopt the type of solutions favoured by Western-style democracies, which would be entirely unsuitable in a tribal-based society. Moreover, he did not regard the statement made by the Tanzanian representative as a report or additional information, but rather as a declaration of intent by the Tanzanian Government to re-establish a mutually beneficial dialogue with the Committee.

29. Mr. PETCHETOV joined previous speakers in expressing satisfaction at the resumption of a serious and constructive dialogue with the United Republic of Tanzania, which despite the absence of a written report augured well for the future. Tanzania was one of the leading nations in the African continent; however, the legacy of its colonial and more recent past undeniably affected its implementation of the Convention. Mass illiteracy was just one phenomenon which prevented the people of Tanzania from reaping the immediate benefits of democratization and technological developments. Other grave social and economic problems were inextricably linked with the ethnic and religious situation.

30. A successful and continuous dialogue depended not only on the contribution of the State party, but also on the attitude of the Committee towards it. Members must not be sidetracked by questionable reports and statistics provided by outside sources, but should focus on improving their grasp of the history of the country, its role in the international community and diplomatic relations. In that connection, he welcomed the statement by Mr. Aboul-Nasr, but more importantly the excellent introduction given by the Country Rapporteur, which had set the tone for a constructive dialogue with the reporting country. He looked forward to further dialogue with Tanzania and a report which would come closer to satisfying the Committee's requirements.

31. Mr. MANGACHI (United Republic of Tanzania) assured the members of the Committee that their comments would be duly conveyed to his Government, particularly those on reporting obligations. He appreciated the Committee's understanding of the particular difficulties facing his country in that connection. Due note would also be taken of the special guidance given by the Chairman regarding the drafting of the periodic report. Many members had expressed concern about the demographic composition of the nation. That question must be seen in terms of the Government's efforts to redress long-standing social and economic disparities. The policy pursued by the colonial Powers, which had made the Asians and Africans second and third-class citizens respectively, had been institutionalized prior to independence. Under the new regime it had been considered a political imperative to destroy that artificial social hierarchy and create a homogeneous society, sometimes by going as far as denying the existence of different racial groups.

32. There had been suggestions of discrimination against Asians. Most people in Tanzania would say differently, for Asians were traditionally the privileged class of wealthy traders. His Government was trying to establish a legal framework in order to promote equal business opportunities for all Tanzanian citizens, including blacks. That would inevitably break the monopoly on trade held by Asian businessmen to date. As part of the Government's efforts along those lines, credit and other support might be

given to blacks rather than Asians, simply because the latter were already established in the business world. It should not be regarded as a form of racial discrimination or a deliberate attempt to oust the privileged classes.

33. The problems concerning the Masai and the Barabaig groups were closely linked with the process of nation-building. During the colonial era, certain parts of the country had prospered more than others and the indigenous populations living there had consequently had better access to education. In order to redress those imbalances, one of the first areas to be nationalized by the Government following independence had been secondary education. Formerly most secondary schools had been run by Roman Catholics or Anglicans. The intention of the Government had thus been to create a system under which entrance would be decided on merit and not on religious denomination. Such a policy had served to eliminate religious discrimination: for instance, Muslims were no longer obliged to convert to Christianity in order to obtain a decent secondary education. Parents who had received an education tended to send their own children to school. However, there had been difficulties with tribes such as the Masai. Since upon reaching a certain age, their children traditionally engaged in herding activities. There was no denying, therefore, that efforts to improve educational standards nationwide had interfered with certain tribal traditions.

34. For practical reasons, some restrictions had had to be imposed on the movements of the Masai. It was difficult to reconcile their nomadic way of life and traditional herding activities with the requirements of a modern State. For instance, the fact that territory might belong to another country and access was not allowed to wildlife reserves and private farms for grazing their livestock were concepts that the Masai found hard to grasp. Furthermore, the Government was having little success in convincing the Masai of the economic and ecological benefits of keeping smaller herds on confined pastures. Other challenges included the provision of adequate amenities for such groups. It must be emphasized that any interference by the Government in the traditional way of life of such tribes formed part of the national effort to modernize society and ensure greater economic development. Admittedly, during the transitional phase, there was resistance to such change by the tribes concerned, on account of which the human rights organizations were all too ready to allege violations. It was in his Government's interest not to marginalize the Barabaig and Masai communities, but rather to allow them to enter the mainstream of society by providing equal opportunities and greater access to State amenities.

35. Turning to the situation of refugees in Tanzania, he pointed out that following a recent influx from Rwanda the total refugee population was now estimated to be 1.4 million. Some of the refugees who had been residing in Tanzania for many years had been naturalized. However that was not a permanent solution. Steps must be taken to create more stable conditions in the countries of origin and to facilitate arrangements for their repatriation. There was no progress to report on the repatriation of Rwandan refugees and, anticipating a crisis situation, the Government had closed its border with Burundi. He stressed that the Rwandan refugees represented a huge economic burden for Tanzania, which could not cope with the situation single-handedly. Refugees were the responsibility of the international community as a whole and support provided solely at the peak of the crisis would not suffice.

36. As to the question of language, Kiswahili had proved very useful in the process of nation building, the intention being to create a sense of nationhood, along the lines of that in the United Kingdom, instead of perpetuating divisive racial and cultural differences.

37. A number of questions had been asked about illiteracy in Tanzania. The latest reports showed that, after earlier successes, the literacy rate was currently falling. At one point it had reached 85 per cent but it was now down to 65 to 70 per cent and still declining. The reason for that trend was economic hardship. It had formerly been Tanzanian government policy to finance primary education and adult literacy campaigns, but the conditions attached to the international economic assistance that the Government had been forced to seek meant that it was unable to spend so freely on such social services as education and health care. Pending the absorbtion of the unneeded manpower into private productive activities, the recommended streamlining of the public sector had merely brought more unemployment. Discussions were taking place with IMF with a view to softening those conditions, given the adverse social effects of the economic restructuring. The issues that had been remarked on were as disturbing to the Government as to the Committee. Tanzania was a least developed country, dependent for its earnings on the export of raw materials and suffering therefore from the syndrome of cheap exports and expensive imports that resulted from an unfair international economic system. It was essential for a dialogue to be opened on improving the terms of trade. Moreover, if the country was to have a free market regime, it would need free market access. Currently, manufacturing was monopolized by the developed countries and a few newly industrialized countries. Something must be done to reduce such glaring disparities in per capita income as that between Tanzania, where it was $110, and Switzerland, where it was $39,000. Where there was poverty of such magnitude, it was inevitable that the very problems that the Committee had been established to examine should proliferate.

38. Mr. Sherifis had made some pertinent comments about separate communities and the way in which his country had tried to solve the problem. The Government would take note of his suggestions. Its aim was to provide opportunities for as many people as possible.

39. Mr. Ahmadu had asked why there had been a shift from a single-party to a multi-party system since, in his view, the single-party system had been working well. Before the introduction of a multi-party system, an opinion poll had been taken. Of those polled, 80 per cent had been against introducing a multi-party system and only 20 per cent had been in favour. Nevertheless, the decision had been taken to respect the opinion of that 20 per cent. A multi-party system had been instituted and there were currently some 15 political parties on the register, of which 4 or 5 were significant. The parties were being encouraged to concentrate on the elections in the constituencies so that a proper parliamentary opposition could be established. The process was viewed as strengthening democracy. It had been felt that the liberalization of the economy should be accompanied by a matching political structure, and it was hoped that the first multi-party elections would go well. It was perhaps going too far to say that the policy of ujamaa, based on socialist principles, had been abandoned: rather, it had been modified. Although the policy had governed the country for a long time,

it had proved unsustainable. A strong economy was needed to be able to assist the poor by providing free services of all kinds. Outside help had been obtained and every effort had been made within the country, but the economic situation had remained dire and the policy could not be sustained. Political realities had had to be adjusted to economic realities. Services had indeed deteriorated, but the situation was not static. The ruling party had not changed it vision although it had been under severe pressure from the international financial institutions to adapt it.

40. The point made by Mr. Wolfrum and others about the need for reports to include demographic data had been duly noted. Mr. Wolfrum had also asked a question about the position of citizens of Zanzibar in the structure of the Union. Zanzibar was recognized as a specific entity: there was a Government of Zanzibar as well as a Union Government. Debate was currently going on about whether there should be only one Government, two as at present, or three, for Tanganyika, Zanzibar and the Union. The Act of Union of 1964 had recognized the need for two Governments in order to prevent Zanzibar from being swallowed up by the much bigger Tanganyika. It had been assumed that Tanganyika did not need similar protection. Over the years, however, the feeling had developed that the cost of running the Union Government was not equally shared between Zanzibar and Tanganyika. Zanzibar was not regarded as a threat to Tanganyika in any sense and the question was more administrative than political. A bi-partisan committee had been set up to work out a solution to the administrative problems. It was recognized that three Governments would be very expensive. Given that there was a separate Government of Zanzibar, certain rights and laws were specific to the people of the island. In a number of designated areas, however, such as defence, foreign affairs, education and home affairs, the Union laws applied to both entities. For some time, mainlanders visiting Zanzibar had needed an identity card, but not people from Zanzibar visiting Tanganyika. Consideration was currently being given to removing the requirement. There were many Zanzibar businessmen operating freely in Tanganyika but not many businessmen from Tanganyika in Zanzibar, not because there were any restrictions but because there were greater opportunities on the mainland.

41. Mr. Abdul-Nasr had expressed sympathy with the difficulties that developing countries experienced in fulfilling the expectations of the international community in regard to reporting. The Committee could perhaps recommend the establishment of a technical assistance mechanism to strengthen the dialogue between it and the reporting countries. Such assistance would help both the countries concerned and the Committee by ensuring that reports were made available on time.

42. In conclusion, he thanked the Committee members for their comments and assured them that his Government appreciated the value of the dialogue. His responses to the questions, though unofficial, would have given the Committee an indication of the way in which his Government viewed the points that had been raised.

43. The CHAIRMAN thanked the representative of the United Republic of Tanzania for his frank and detailed replies. He assured him that all the members of the Committee appreciated the difficulties faced by States such as his. The Committee was particularly anxious to maintain the kind of dialogue

in which it had just engaged. In 1988, the Committee had received a report but no representative of Tanzania had been present at the discussion. At the current session, the Committee had received no written report but it had been able to hear a representative of the reporting State, who had informed it of the latest developments and replied to many of the points that had been raised.

44. Mr. YUTZIS said that he had been particularly struck by the frankness with which the representative of the United Republic of Tanzania had engaged in a discussion of a subject that was not always referred to in the Committee, namely, economics. That encouraged him to stress once again the importance to the Committee of the economic model in force in a particular country. As long as there were economic models that resulted in the marginalization of certain sectors of the population, it was hardly surprising that racial discrimination should increase. Poverty could not be ignored: the link between poverty, marginalization and discrimination had been proved beyond doubt. Of course, outside financial pressure and scarce resources could not excuse the unfair distribution of such resources as were available. It was the responsibility of Governments to ensure that that did not take place. He hoped that, when Tanzania presented its next report, both in writing and through the presence of a representative, information could be provided on the distribution of national income among the different social sectors and on the efforts of the Government to distribute the available resources more equitably. Demographic data would be essential for that purpose. The effects of restructuring were highly important and it would be of great interest to the Committee to have more details in that regard in the next report. The suggestion that a way should be found, through the Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights, for the Committee to work with Tanzania on the next report was also very useful.

45. Mr. de GOUTTES said that the representative of the United Republic of Tanzania had emphasized his Government's desire to build a united nation despite the persistence of separate ethnic mentalities. The statement that the Government was making a special effort in that direction proved that there were ethnic distinctions which needed to be combated. Accordingly, the next report should include information on the legislation enacted for that purpose. Since ethnic distinctions existed in the minds of the people themselves, laws to combat racial discrimination were clearly necessary.

46. The CHAIRMAN thanked the representative of the United Republic of Tanzania for attending the meeting. He hoped that the representative was as convinced as the Committee itself of the merits of a continuing dialogue. He also hoped that the Government would do all it could to expedite the submission of its next report and that the Committee would be able to consider that report in the presence of the Government's representatives. The Committee's proceedings had been greatly enhanced by the extensive answers given and the new information provided had clarified many important points. The first part of the Committee's consideration of the report of the United Republic of Tanzania had thus been completed. The second part would consist of adoption of the Committee's concluding observations.

47. Mr. Mangachi (United Republic of Tanzania) withdrew.

The meeting rose at 1 p.m.